

AMENDED IN ASSEMBLY JULY 9, 2015

AMENDED IN SENATE JUNE 3, 2015

AMENDED IN SENATE APRIL 20, 2015

SENATE BILL

No. 334

**Introduced by Senator Leyva
(Coauthors: Senators Leno and Pavley)**

February 23, 2015

An act to amend ~~Section~~ *Sections 32242 and 38086* of, to add Sections 32241.5, 32246, 32247, 32248, and 32249 to, and to add Article 13 (commencing with Section 49580) to Chapter 9 of Part 27 of Division 4 of Title 2 of, the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

SB 334, as amended, Leyva. Pupil health: drinking water.

(1) Existing law requires a school district to provide access to free, fresh drinking water during meal times in school food service areas, unless the governing board of a school district adopts a resolution stating that it is unable to comply with this requirement and demonstrating the reasons why it is unable to comply due to fiscal constraints or health and safety concerns. Existing law requires the resolution to be publicly noticed on at least 2 consecutive meeting agendas and approved by at least a majority of the governing board of the school district.

This bill would delete the provision authorizing a school district to adopt a resolution stating that it is unable to provide access to free, fresh drinking water during meal times. The bill would instead specify that a school district shall provide access to free, fresh, and clean drinking water during meal times through the use of drinking water access points,

as defined. By imposing additional duties on school districts, this bill would impose a state-mandated local program.

This bill would require a school district that has drinking water sources with drinking water that does not meet the United States Environmental Protection Agency drinking water standards for lead or any other contaminant to close access to those drinking water sources, to provide alternative drinking water sources, as specified, and to notify specified persons if the school district is required to provide those alternative drinking water sources. By imposing additional duties on schools and school districts, this bill would impose a state-mandated local program.

(2) Under existing law, known as the Lead-Safe Schools Protection Act, the State Department of Public Health is required to perform various activities related to reducing the risk of exposure to lead hazards in ~~public schools~~ *schools, including, among other activities, working with the State Department of Education to develop voluntary guidelines to ensure that lead hazards are minimized in the course of school repair and maintenance programs and abatement procedures.*

~~This~~

*This bill would repeal the requirement that the State Department of Public Health develop voluntary guidelines. The bill would instead require the State Department of Education to work with the State Department of Public Health to develop guidelines and best practices to ensure that lead hazards are minimized in the course of school repair and maintenance and abatement procedures. The bill would prohibit drinking water that does not meet the United States Environmental Protection Agency drinking water standards for lead from being provided at a school facility, and would require a school district that has such drinking water to identify the most urgent mitigation needs and develop a protocol or plan for mitigation. The bill would require the State Department of Public Health to test drinking water ~~sources~~ *sources, as defined*, at a sample of schoolsites, as specified, for lead in the drinking water, and would require the data collected through this testing to be posted on the Internet Web sites of the State Department of Education and the State Department of Public Health. The bill would require a public school that has lead-containing plumbing components to flush all drinking water sources at the beginning of each schoolday, except as provided. By imposing additional duties on public schools and school districts, this bill would impose a state-mandated local program.*

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 32241.5 is added to the Education Code,
2 to read:

3 32241.5. The department shall work with the State Department
4 of Public Health to develop guidelines and best practices to ensure
5 that lead hazards are minimized in the course of school repair and
6 maintenance and abatement procedures. The data gathered pursuant
7 to subdivision (b) of Section 32247 shall be considered in the
8 development of the guidelines and best practices.

9 *SEC. 2. Section 32242 of the Education Code is amended to*
10 *read:*

11 32242. ~~The department~~ *State Department of Public Health*
12 *shall do all of the following:*

13 (a) Design and implement a strategy for identifying the
14 characteristics of high-risk schools and provide a basis for
15 statewide estimates of the presence of lead in schools attended by
16 young children.

17 (b) Conduct a sample survey, as described in Section 32241, to
18 determine the likely extent and distribution of lead exposure to
19 children from paint on the school, soil in play areas at the school,
20 drinking water at the tap, and other potential sources identified by
21 ~~the department~~ *State Department of Public Health* for this purpose.
22 To the maximum extent possible, limited sample testing shall be
23 used to validate survey results. ~~The department~~ *State Department*
24 *of Public Health* shall compile and summarize the results of that
25 survey and report those results to the Legislature and the ~~State~~
26 ~~Department of Education.~~ *department.*

27 (c) Within 60 days of the completion of testing a schoolsite, the
28 ~~department~~ *State Department of Public Health* shall notify the

1 principal of the school or director of the schoolsite of the survey
2 results. Within 45 days of receiving the survey results, the principal
3 or director, as the case may be, shall notify the teachers and other
4 school personnel and parents of the survey results.

5 (d) Make recommendations to the Legislature and the ~~State~~
6 ~~Department of Education~~, *department*, based on the survey results
7 and consideration of appropriate federal and state standards, on
8 the feasibility and necessity of conducting statewide lead testing
9 and any additional action needed relating to lead contamination
10 in the schools.

11 (e) As deemed necessary and appropriate in view of the survey
12 results, develop environmental lead testing methods and standards
13 to ensure the scientific integrity of results, for use by schools and
14 contractors designated by schools for that purpose.

15 (f) Evaluate the most current cost-effective lead abatement
16 technologies.

17 ~~(g) Work with the State Department of Education to develop~~
18 ~~voluntary guidelines for distribution to requesting schools to ensure~~
19 ~~that lead hazards are minimized in the course of school repair and~~
20 ~~maintenance programs and abatement procedures.~~

21 ~~SEC. 2.~~

22 *SEC. 3.* Section 32246 is added to the Education Code, to read:
23 32246. Drinking water that does not meet the United States
24 Environmental Protection Agency drinking water standards for
25 lead shall not be provided at a school facility.

26 ~~SEC. 3.~~

27 *SEC. 4.* Section 32247 is added to the Education Code, to read:
28 32247. (a) The State Department of Public Health shall test
29 drinking water sources at a sample of schoolsites for lead in the
30 drinking water. The sample shall include schools that are
31 representative of the state by geographical region, size of
32 enrollment, and areas identified pursuant to Section 39711 of the
33 Health and Safety Code. *It is the intent of the Legislature to*
34 *prioritize testing of schoolsites that have high risk factors, as*
35 *described in Section 32241.*

36 (b) The data collected by the State Department of Public Health
37 shall include drinking water lead testing information, including,
38 but not limited to, dates of testing, number and type of drinking
39 water sources tested, and test results. *Upon collection of the data,*

1 *the State Department of Public Health shall notify the school*
2 *districts with schools that were tested of the test results.*

3 (c) The State Department of Public Health and the department
4 shall do both of the following:

5 (1) Establish a process for receiving, recording, and making
6 public the data received from testing water at schoolsites.

7 (2) Post the data collected during drinking water lead testing
8 on the departments' respective Internet Web sites.

9 (d) The State Department of Public Health shall not test drinking
10 water sources that meet either of the following conditions:

11 (1) Are located at schoolsites constructed after January 1, ~~2010~~.
12 ~~1993~~.

13 (2) Have been tested by the State Department of Public Health
14 or a certified professional employed or hired by a school district
15 and meets the United States Environmental Protection Agency and
16 state drinking water standards for lead.

17 (e) *For purposes of this section, "drinking water source" is*
18 *defined as drinking water fountains and other fixtures that are*
19 *intended to convey water for human consumption.*

20 ~~SEC. 4.~~

21 *SEC. 5.* Section 32248 is added to the Education Code, to read:

22 32248. (a) A school district that has drinking water sources
23 with drinking water that does not meet the United States
24 Environmental Protection Agency drinking water standards for
25 lead shall work with the State Department of Public Health and
26 the local department of public health to identify the most urgent
27 mitigation needs and develop a protocol or plan for mitigation.

28 (b) The protocol or plan shall identify timelines and funding
29 sources for mitigation.

30 (c) The protocol or plan shall be presented to and adopted by
31 the governing board of the school district at a regularly scheduled
32 public meeting within six months of the school district's receipt
33 of the drinking water test results.

34 ~~SEC. 5.~~

35 *SEC. 6.* Section 32249 is added to the Education Code, to read:

36 32249. A school that has lead-containing plumbing components
37 shall flush all drinking water sources for a minimum of 30 seconds
38 at the beginning of each schoolday, consistent with protocols
39 recommended by the United States Environmental Protection

1 Agency. A school is not required to flush drinking water sources
2 that have been shut off or have been certified as free of lead.

3 ~~SEC. 6.~~

4 *SEC. 7.* Section 38086 of the Education Code is amended to
5 read:

6 38086. (a) A school district shall provide access to free, fresh,
7 and clean drinking water during meal times in the food service
8 areas of the schools under its jurisdiction, including, but not
9 necessarily limited to, areas where reimbursable meals under the
10 federal National School Lunch Program or the federal School
11 Breakfast Program are served or consumed. A school district may
12 comply with this section by, among other means, providing cups
13 and containers of water or soliciting or receiving donated bottled
14 water.

15 (b) A school district shall comply with this section through the
16 use of drinking water access points.

17 (c) For purposes of this section, “drinking water access point”
18 is defined as a station, plumbed or unplumbed, where pupils can
19 access free, fresh, and clean drinking water. An unplumbed access
20 point may include water bottles and portable water dispensers.

21 ~~SEC. 7.~~

22 *SEC. 8.* Article 13 (commencing with Section 49580) is added
23 to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education
24 Code, to read:

25
26 Article 13. Drinking Water
27

28 49580. (a) A school district that has drinking water sources
29 with drinking water that does not meet the United States
30 Environmental Protection Agency drinking water standards for
31 lead or any other contaminant shall close access to those drinking
32 water sources immediately upon receipt of test results or
33 notification from the public water system.

34 (b) (1) If, as a result of closing access to a drinking water source
35 pursuant to subdivision (a), a schoolsite within a school district
36 no longer has the minimum number of drinking fountains required
37 pursuant to Chapter 4 (commencing with Section 401.0) of the
38 California Plumbing Code (Part 5 of Title 24 of the California
39 Code of Regulations), the school district shall provide alternative
40 drinking water sources at that schoolsite.

(2) An alternative drinking water source provided pursuant to this subdivision while the source of contamination is being mitigated may be from plumbed or unplumbed sources. Unplumbed sources may include, but are not limited to, portable water sources and bottled water.

(c) A school district shall notify parents, pupils, teachers, and other school personnel of drinking water test results, immediately upon receipt of those test results, if the school district is required to provide alternative drinking water sources.

~~SEC. 8.~~

SEC. 9. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.